

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DAVID E. SIERRA-LOPEZ,

Plaintiff,

v.

JOSHUA BENDER, LINDSEY ARISMAN
and HEATHER FRANK,

Defendants.

OPINION AND ORDER

18-cv-665-bbc

Pro se plaintiff David E. Sierra-Lopez is proceeding on claims that prison staff at Columbia Correctional Institution violated his Eighth Amendment rights by failing to provide him medications and mental health care for numerous health problems in July 2018. Defendants have filed a motion to compel plaintiff to sign an authorization form allowing defendants to review his medical and mental health records from January 2018 to the present. Dkt. #20. As defendants point out, plaintiff's medical and mental health records are highly relevant to the claims at issue in this case. Defendants tried to resolve this dispute informally with plaintiff, but were unable to do so. However, plaintiff has not opposed the motion, which could suggest that he is no longer interested in prosecuting this lawsuit, or that he simply concedes that he has no basis to object to this request.

Although the court does not compel parties in a lawsuit to disclose confidential medical or psychiatric information if they choose not to, I agree with defendants that plaintiff needs to sign the medical authorization form if he wants to continue with this

lawsuit. This is because it is not fair to defendants for plaintiff to make the sort of claims that he has made here without giving defendants access to the information they need to investigate and defend against the claims. Plaintiff may choose how he wishes to proceed, but he has to choose. Therefore, plaintiff must sign and return the medical authorization form to defendants by the deadline set forth below. If he does not, I will dismiss this case for plaintiff's failure to prosecute it under Rule 41(b) of the Federal Rules of Civil Procedure.

Defendants have also filed a motion requesting an extension in their deadline for filing a summary judgment motion based on plaintiff's failure to exhaust his administrative remedies, because plaintiff has alleged that he did not file a grievance because of his mental health problems. Dkt. #21. Defendants state that they need time to review plaintiff's medical and mental health records before they can decide whether to file a summary judgment motion regarding exhaustion. I will grant the motion and extend the deadline to August 12, 2019.

ORDER

IT IS ORDERED that

1. The motion to compel filed by defendants Lindsey Arisman, Joshua Bender and Heather Frank, dkt. #20, is GRANTED to the extent that plaintiff David E. Sierra-Lopez must provide defendants a properly executed form consenting to disclosure of his medical and mental health records or face dismissal of this case.
2. Plaintiff may have until July 5, 2019, to provide defendants a properly executed

form consenting to disclosure of his medical and mental health records. If plaintiff does not respond by that date, the court will dismiss this case with prejudice under Federal Rule of Civil Procedure 41(b) for plaintiff's failure to prosecute it.

3. Defendants' motion for extension of time, dkt. #21, is GRANTED. Defendants' may have until August 12, 2019 in which to file a motion for summary judgment on the ground that plaintiff did not exhaust his administrative remedies before filing this lawsuit.

Entered this 27th day of June, 2019.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge